

## **CHAPTER 13-03-20 PARTICIPATION LOANS**

### **Section**

13-03-20-01

Definitions

13-03-20-02

Authorization

### **13-03-20-01. Definitions.** For purposes of this section:

1. "Credit union" means any state-chartered or federal-chartered credit union.
2. "Credit union organization" means any organization as determined by the state credit union board established primarily to serve the daily operational needs of its member credit unions. The term does not include trade associations, membership organizations principally composed of credit unions, or corporations, or other businesses which principally provide services to credit union members as opposed to corporations or businesses whose business relates to the daily in-house operations of credit unions.
3. "Eligible organization" means a credit union, credit union organization, or financial organization.
4. "Financial organization" means any federally chartered or federally insured financial institution and the Bank of North Dakota.
5. "Originating lender" means the participant with which the member contracts.
6. "Participation loan" means a loan in which one or more eligible organizations participate pursuant to a written agreement with the originating lender.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

### **13-03-20-02. Authorization.**

1. Subject to the provisions of this section, any state-chartered credit union may participate in making loans with eligible organizations within the limitations of the board of directors' written participation loan policies, provided:
  - a. A written master participation agreement shall be properly executed, acted upon by the state-chartered credit union's board of directors, or if the board has so delegated in its policy, the investment committee or senior management officials and retained

in the state-chartered credit union's office. The master agreement shall include provisions for identifying, either through a document which is incorporated by reference into the master agreement, or directly in the master agreement, the participation loan or loans prior to their sale.

- b. A state-chartered credit union may sell to or purchase from any participant the servicing of any loan in which it owns a participation interest.
2. An originating lender which is a state-chartered credit union shall:
- a. Originate loans only to its members;
  - b. Retain an interest of at least ten percent of the face amount of each loan;
  - c. Retain the original or copies of the loan documents; and
  - d. Require the credit committee or loan officer to use the same underwriting standards for participation loans used for loans that are not being sold in a participation agreement unless there is a participation agreement in place prior to the disbursement of the loan. If a participation agreement is in place prior to disbursement, either the credit union's loan policies or the participation agreement shall address any variance from nonparticipation loan underwriting standards.
3. A participant state-chartered credit union that is not an originating lender shall:
- a. Participate only in loans it is empowered to grant, having a participation policy in place which sets forth the loan underwriting standards prior to entering into a participation agreement;
  - b. Participate in participation loans only if made to its own members or members of another participating credit union, eligible organization, or financial organization;
  - c. Retain the original or a copy of the written participation loan agreement and a schedule of loans covered by the agreement; and

- d. Obtain the approval of the board of directors or investment committee of the disbursement of proceeds to the originating lender.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06